UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL L. GRANDCOLAS,
WENDELL W. ANTHONY,
PATRICK LAW, LESLIE MOSS,
TERESA A. PETACH
and PETER TOMPKINS

Appeal No. 2005-1524
Application No. 09/240,588

ON BRIEF

Before THOMAS, HAIRSTON, and RUGGIERO, Administrative Patent Judges.

RUGGIERO, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal from the final rejection of claims 14-27, which are all of the claims pending in the present application.

The disclosed invention relates to a method and system for automatically harmonizing access to a given software application from different access devices. For example, a financial institution can provide access to a given application, such as an automatic bill payment service, to customers using different access

devices such as web browsers, screen phones, and personal computers. According to Appellants (Specification, page 3), only a single application program need be written and maintained by the financial institution to provide customer access.

Claim 14 is illustrative of the invention and reads as follows:

14. A method of interfacing a plurality of different access devices to either a legacy application or a canoncial application comprising;

parsing a data stream from the desired application if the desired application is a legacy application;

creating a token representation of the data stream from the desired application, regardless if the application is a legacy application or a canonical application; and

forwarding the token representation to one of the plurality of access devices.

The Examiner relies on the following prior art:

Nguyen et al. (Nguyen)	6,072,870	Jun. 06, 2000 (filed Jun. 17, 1996)

Claims 14-27, all of the appealed claims, stand finally rejected under 35 U.S.C. § 102(e) as being anticipated by Nguyen.

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Brief (filed October 21, 2002) and Answer (mailed June 27, 2003) for the respective details.

OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the Examiner, and the evidence of anticipation relied upon by the Examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, Appellants' arguments set forth in the Brief along with the Examiner's rationale in support of the rejection and arguments in rebuttal set forth in the Examiner's Answer.

It is our view, after consideration of the record before us, that the Nguyen reference does not fully meet the invention as set forth in claims 14-27. Accordingly, we reverse.

At the outset, we note that anticipation is established only when a single prior art reference discloses, expressly or under the principles of indecency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

With respect to the appealed independent claims 14, 19, and 22, the Examiner attempts to read the various limitations on the disclosure of Nguyen. In particular, the Examiner points to the illustrations in Figures 7A-7J and 8 of Nguyen as well as the accompanying description at column 18, line 48 through column 19, line 67 of Nguyen.

Appellants' arguments in response assert a failure of Nguyen to disclose every limitation in independent claims 14, 19, and 22 as is required to support a rejection based on anticipation. Appellants' assertions (Brief, pages 4 and 5) focus on the contention that, in contrast to the claimed invention, Nguyen does not disclose the creation of a token representation of the data stream from the desired software application.

After reviewing the Nguyen reference in light of the arguments of record, we are in general agreement with Appellants' position as expressed in the Brief. We agree with Appellant that the random nature of the capture token (770, Figure 7F) generated by Nguyen, a token generated to associate a payment capture request with a payment authorization request, can only lead to the conclusion that any such randomly generated token can not be interpreted as a token which is representative of an application data stream as claimed. We have reviewed the entire disclosure of Nguyen and find that the

Examiner's assertion that the randomly generated capture token of Nguyen is a representation of the payment gateway software application can only be based on unwarranted and unsupported speculation.

In view of the above discussion, in order for us to sustain the Examiner's rejection, we would need to resort to impermissible speculation or unfounded assumptions or rationales to supply deficiencies in the factual basis of the rejection before us. In re Warner, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967), cert. denied, 389 U.S. 1057 (1968), rehearing denied, 390 U.S. 1000 (1968). Accordingly, since all of the claim limitations are not present in the disclosure of Nguyen, we do not sustain the Examiner's 35 U.S.C. § 102(e) rejection of independent claims 14,

19, and 22, nor of claims 15-18, 20, 21, and 23-27 dependent thereon. Therefore, the decision of the Examiner rejecting claims 14-27 is reversed.

REVERSED

JAMES D. THOMAS
Administrative Patent Judge)

KENNETH W. HAIRSTON
Administrative Patent Judge) BOARD OF PATENT APPEALS AND INTERFERENCES

JOSEPH F. RUGGIERO
Administrative Patent Judge)

JFR/dal

Kilpatrick Stockton, LLP
607 14th Street, N.W.
Washington, DC 2005